

REMARKS

**Status of Claims:**

Claims 1-9 remain for examination.

**Drawing Changes:**

The Examiner has requested that Fig. 1 be amended so that line 122 is replaced by line 112. However, applicant has amended the specification to be in conformity with Fig. 1 so that the specification now refers to line 122 which is shown in Fig. 1. Thus, it is submitted that no drawing changes are needed to Fig. 1.

In reviewing the specification, however, applicant noted drawing changes which are needed. These changes include amendments to Figs. 3 and 11. Fig. 3 has been amended to add line 135 as the status data 135 referred to, for example, on page 11, line 16 and to add line 139b which is the received time referred to in the specification on page 11, line 20.

Fig. 11 has been amended to include the legend prior art in conformity with applicant's specification as stated on page 2, line 11. Replacement sheets for Figs. 3 and 11 are attached hereto.

**Prior Art Rejection:**

Claims 1-9 stand rejected under 35 U.S.C. § 102(e) as anticipated by Katoh. With regard to claims 1 and 9, the Examiner points to Fig. 2 and column 6, lines 17-45 and column 17, line 26 in connection applicant's recited detection means and further points to column 6, lines 3-17 and claims 7 and 8 in connection with applicant's recited discard means.

The Examiner's rejection is respectfully traversed.

In accordance with applicant's invention, the detection means detects a congestion state corresponding to received ATM cells from the subscribers and outputs a warning signal of a level value according to the congested state. Applicant's discard means selectively discards the received ATM cells from the subscribers on the basis of a communication state determined by received ATM cells from the ATM switching unit and the received ATM cells from the subscribers and the level value of the congestion state indicated by the warning signal from the detection means. The Examiner appears to equate the warning signal of a

level value with the signal providing information about the frequency of nonconforming cells. See, for example, column 17, line 26. When the frequency of occurrence of nonconforming cells is greater than or equal to the specified value, it is decided that the transfer rate in the connection or connection group exceeds the monitor rate. See, for example, column 6, lines 13-16.

In contrast, applicant's invention utilizes level values which correspond to a plurality of different thresholds. As explained, for example, in applicant's specification on page 10, lines 10-22, when a plurality of threshold values are set to 5/8, 3/4 or 7/8, the warning signal 129 is provided with the level values 000, 001, 011 or 111. Thus, the level values correspond or indicate an amount of congestion by providing an indication as to how full is the storage means 119 which forms part of the detecting means 118 in applicant's multiplexing part 113.

In order to more clearly differentiate applicant's invention from the applied prior art, applicant has amended independent claims 1 and 9 to make it clear that the level value indicates an amount of congestion. Thus, in contrast to the teaching of Katoh, which merely disclose the frequency of occurrence of nonconforming cells, applicant's invention provides a signal indicating an amount of congestion, and this signal is generated in applicant's recited detection means and utilized in applicant's recited discard means.

### **Conclusions:**

As may be seen from the above, applicant's invention recites limitations that are neither disclosed nor made obvious by the Katoh teaching. As such, Katoh cannot provide an anticipatory reference under 35 U.S.C. § 102. In order for a reference to anticipate applicant's claims, the reference must disclose each and every recited limitation. This is certainly not the case here and, thus, the § 102 rejection must be withdrawn.

In view of the amendments made hereto and the arguments set forth above, it is submitted that the application is now in condition for allowance and an early indication of same is earnestly solicited.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a

check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date

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By

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